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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/721,053	11/22/2000	Steve Epstein	81183	2297

24628 7590 08/25/2005

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EXAMINER

CALLAHAN, PAUL E

ART UNIT	PAPER NUMBER
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2137

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/721,053

Applicant(s)

EPSTEIN ET AL.

Examiner

Paul Callahan

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,4,5,8-18 and 20-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,4,5,8-18 and 21-23 is/are allowed.
- 6) ☒ Claim(s) 20,24 and 27 is/are rejected.
- 7) ☐ Claim(s) 25 and 26 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 November 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. Claims 1-5 and 8-20 were pending in this application at the time of the previous Office Action. By the latest amendment claims 2, 3, and 19 are cancelled and claims 21-27 are newly added. Therefore claims 1, 4, 5, 8-18, and 20-27 are pending and have been examined.

### ***Response to Arguments***

2. Applicant's arguments, taken together with the changes made to the language of claims 1 and 15 are persuasive in overcoming the rejections of those claims as found in the previous Office Action.

3. Applicant's arguments with respect to the rejection of claim 20 as found in the previous Office Action have been fully considered but they are not persuasive. The Applicant argues that Fijolek et al. only teach the limitation: "each of the plurality of service levels includes an indication of ... a number of users that my concurrently connect to the transmission service" (col. 22 lines 9-20). Yet the reference additionally teaches that each of the plurality of service levels includes an indication of a set of transmission applications served (col. 21 table 14). The change made to the language of claim 20 by the latest amendment does not therefore, render the claim patentable over the prior art.

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***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

20, 24, 27  
4. Claims ~~20~~ are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimomura et al (US pat 6,473,858), and further in view of Fijolek et al. (US pat 6,553,568).

As for claims 20 and 24, Shimomura teaches teaches a communication session management method for providing a transmission service having a plurality of service-levels, each service-level being associated with a separate quality-of-service (QOS), the method comprising; preparing data for transmission at one of the plurality of service-levels by uniquely associating a service-level encryption key with said one of the plurality of service-levels, encrypting said data with said service-level encryption key to form encrypted data uniquely associated with said one of the plurality of service-levels; and transmitting said encrypted data uniquely associated with said one of the plurality of service-levels to users entitled to said one of the plurality of service levels (col.6 lines 31-44, col.8 lines 18-25, col.13 lines 31-37). What Fijolek teaches that Shimomura does not teach is said plurality of service-levels are hierarchical according to a QOS hierarchy, and each one of the plurality of service-levels includes an indication of at

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least one of the following: a number of users that may concurrently connect to the transmission service, a set of transmission applications served; a type of downgrade support to a service-level lower in the QOS hierarchy, a type of disconnect-on-idle operation', and a determination of a Web server to connect to (col.22 lines 9-20, col. 21 table 14). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Shimomura et al's apparatus for broadcasting data with access control with Fijolek et al's teaching of downgrading to a lower service level in order to allow service level agreements to be used without adversely affecting performance or throughput (Fijolek col.28 lines 50-53).

As for Claim 27, Fijolek teaches a method according to claim 20 where each one of a plurality of service levels includes an indication of a determination of a server to connect to (col. 14 lines 55-67). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate this feature into the system of Shimomura. It would have been obvious to do so since determination of the transmission path would be vital to maintaining transmission security.

***Allowable Subject Matter***

5. Claims 1, 4, 5, 8-18, and 21-23 are allowed.

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6. Claims 25 and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following US Patent document is pertinent to the applicant's disclosure:

Beser        6,212,563

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

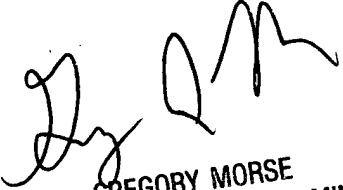
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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul E. Callahan whose telephone number is (571) 272-3869. The examiner can normally be reached on M-F from 9 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Andrew Caldwell, can be reached on (571) 272-3868. The fax phone number for the organization where this application or proceeding is assigned is: (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

8-18-2005

*Paul Callahan*

  
GREGORY MORSE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100